

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BENJAMIN WATERS,

Plaintiff,

TRANSFER ORDER

-against-

12 CV 3047 (RRM)

OFFICER ORILUS #7930;
OFFICER OLIVO #17337;
OFFICER ALFORD #14201,

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge:

On June 13, 2012, *pro se* plaintiff Benjamin Waters, currently incarcerated at the Anna M. Kross Center (“AMKC”) on Rikers Island, commenced this action against defendants pursuant to 42 U.S.C. § 1983.

Although plaintiff mailed the instant action to this Court and used this Court’s civil rights form for prisoners, plaintiff’s submission is titled “Amended Appeal 11 Civ. 2501” which refers plaintiff’s action against Officers Orilus and Olivo that he filed in the United States District Court for the Southern District of New York (“SDNY”) on April 5, 2011. On September 6, 2011, defendant Orilus filed an answer. However, on June 13, 2012, the case was closed based on plaintiff’s letter seeking to withdraw the case. On the same day, plaintiff filed this action naming the same defendants and including an additional defendant, Officer Alford. Plaintiff raises the same issues regarding his access to the law library as in the SDNY case.

Because plaintiff filed this action originally in the Southern District of New York and titles this action as an “Amended Appeal 11 Civ. 2501” where at least one defendant answered

the complaint, and because we share the “waters within the Eastern District” 28 U.S.C. § 112(b), where Rikers Island is located, this action should be transferred to the Southern District of New York.

Accordingly, this case is hereby transferred, in the interest of justice, to the United States District Court for the Southern District of New York. See 28 U.S.C. §1404(a). A ruling on plaintiff’s application to proceed *in forma pauperis* and enforcement of the Prison Litigation Reform Act is reserved for the transferee court. That provision of Rule 83.1 of the Local Rules of the Eastern District of New York which requires a seven-day delay is waived. No summons shall issue from this Court.

The Clerk of Court is directed to mail a copy of this Transfer Order to plaintiff, and to close the file in this Court.

SO ORDERED.

Dated: Brooklyn, New York
June 21, 2012

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge